

REMARKS

This Application has been carefully reviewed in light of the Final Action mailed September 23, 2005. Applicant respectfully requests reconsideration and favorable action in this case.

Claims 1, 13, 28, and 38 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046. Claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046 are directed in general to receiving telecommunication information for a subscriber and generating ATM cells for communicating the telecommunication information. Claims 1, 13, 28, and 38 are directed in general to receiving data packets from a broadband network and extracting telecommunication information from the data packets for communicating the telecommunication information. Thus, the two sets of claims are directed to completely different and opposite operations. Accordingly, a Terminal Disclaimer is not needed to overcome this rejection as obviousness-type double patenting does not apply to this Application when compared to U.S. Patent No. 6,526,046.

Claims 1-4, 13-16, 28-31, and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Gerszberg, et al. Independent Claims 1, 13, 28, and 38 recite in general the ability to interface with first and second data communication protocols that include IP, ATM, and Frame Relay. These claims also recite that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. These claims also recite that the telecommunication interface formats may be any of GR-303, TR-8, SS7, V5, ISDN, and unbundled analog

lines. By contrast, the Examiner readily admits that the Focsaneanu, et al. patent fails to disclose the ability to interface with first and second data communication protocols and also fails to disclose the types of broadband networks and telecommunication interface formats provided in the claims. The Examiner cites a portion of the Focsaneanu, et al. patent that briefly mentions different protocols for connection requests and grants. However, the Focsaneanu, et al. patent fails to disclose an ability to provide information from various broadband networks in various data communication protocols to subscribers having various telecommunication interface formats as provided in the claimed invention. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.

The Examiner combines the Chao, et al. patent with the Focsaneanu, et al. patent to support the ability to interface with first and second data communication protocols. However, the Chao, et al. patent is merely directed to an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling multiple priorities, which is not remotely related to interfacing with first and second data communication protocols. The unique protocol discussed in the Chao, et al. patent is a contention protocol to provide fair access to the upstream bus for all units. Thus, the contention protocol for providing fair access to the upstream bus mentioned by the Chao, et al. patent is totally unrelated to interfacing with first and second data communication protocols as required by the claimed invention. The Examiner has yet to show how the unique protocol described in the Chao, et al. patent is able

to interface with first and second data communication protocols as provided in the claimed invention.

The Examiner combines the Gerszberg, et al. patent with the Focsaneanu, et al. patent to support the fact that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. However, the Gerszberg, et al. patent merely provides for only a single type of communication capability to and from its customer premises. The portions of the Gerszberg, et al. patent cited by the Examiner merely refer to different services provided to a customer through a cable modem and not the different types of communication capability that can be handled from a broadband network as provided in the claimed invention.

Based on the above discussion, the structure that would result from placing the unique protocol for contention determination of the Chao, et al. patent and the single communication type capability of the Gerszberg, et al. patent into the network of the Focsaneanu, et al. patent would still lack an ability to provide information to a subscriber in one of various telecommunication interface formats received from one of various broadband networks using one of various data communication protocols as required by the claimed invention. The Examiner has failed to show that the proposed combination provides an ability to handle data packets from any of digital subscriber line, cable, and wireless platforms carried by any of IP, ATM, or Frame Relay protocols and provided to subscribers over any of GR-303, TR-8, SS7, V5, ISDN, or unbundled analog line types of telecommunication interface formats as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-4, 13-16, 28-31, and 38-41 are patentably distinct from the proposed

Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination.

Claims 5-7, 17-19, 32, 33, 42, and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Hortenslus, et al. Independent Claim 1, from which Claims 5-7 depend; Independent Claim 13, from which Claims 17-19 depend; Independent Claim 28, from which Claims 32 and 33 depend; and Independent Claim 38, from which Claims 42 and 43 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Hortenslus, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al., Chao, et al., or Gerszberg, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 5-7, 17-19, 32, 33, 42, and 43 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Hortenslus, et al. combination.

Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Pounds, et al. Independent Claim 1, from which Claims 8, 10, and 12 depend; Independent Claim 13, from which Claims 20, 22, and 24 depend; Independent Claim 28, from which Claims 34, 35, and 37 depend; and Independent Claim 38, from which Claims 44, 45, and 47 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Pounds, et al. application does not include any additional disclosure combinable with the

Focsaneanu, et al., Chao, et al., or Gerszberg, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Pounds, et al. combination.

Claims 11, 23, 36, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lyles, et al. Independent Claim 1, from which Claim 11 depends; Independent Claim 13, from which Claim 23 depends; Independent Claim 28, from which Claim 36 depends; and Independent Claim 38, from which Claim 46 depends, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Lyles, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al., Chao, et al., or Gerszberg, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 11, 23, 36, and 46 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lyles, et al. combination.

Claims 9, 21, and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lor. The deficiencies of the Focsaneanu, et al., Chao, et al., and Gerszberg, et al. patents have been noted above. The Lor patent merely shows a network that can be a cable compatible network or an asynchronous digital subscriber line network. The Lor patent has no capability to be both types of networks simultaneously. Additionally, the Lor patent does

not even mention a wireless capability. Moreover, the mere mention of cable and DSL in the Lor patent does not provide sufficient disclosure to read on a gateway having packetization modules that can handle data packets from any of DSLAM, CMTS, or BSC units as provided in the claimed invention. Thus, the structure that would result from the Examiner's proposed combination would still lack an ability to handle data packets from any of DSLAM, CMTS, and BSC units carried by any of IP, ATM, or Frame Relay protocols and provided to subscribers over any of GR-303, TR-8, SS7, V5, ISDN, or unbundled analog lines telecommunication interface formats as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 9, 21, and 25-27 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lor combination.

This Response to Examiner's Final Action is necessary to address the Examiner's characterization of the prior art in support of the rejections to the claims. This Response to Examiner's Final Action could not have been presented earlier as the Examiner has only now provided the current characterization of the cited art supporting the claim rejections.

CONCLUSION

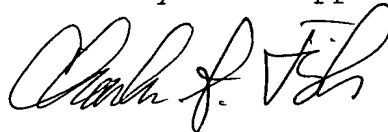
Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read "Charles S. Fish", is written over the printed name.

Charles S. Fish

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